

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for leave to file an amended complaint, motion for appointment of counsel, and upon the unexecuted waiver of service as to defendant Stephen Bergeron.

Plaintiff may amend his complaint as a matter of course under Rule 15(a). So, the motion to amend will be granted.

There is no constitutional or statutory right to appointed counsel in civil cases. Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005. After considering these factors, the Court finds that the facts and legal issues involved are not so complicated that the appointment of

counsel is warranted at this time. Therefore, the motion for appointment of counsel will be denied without prejudice.

Counsel for defendant Wallace has informed the Court that he cannot waive service for Bergeron because Bergeron no longer works for the Missouri Department of Corrections, and counsel has attempted to contact Bergeron several times without success. The Court will direct counsel to submit the last known residential address for Bergeron to the Court, *in camera*, so that the Court may attempt to serve process on Bergeron.

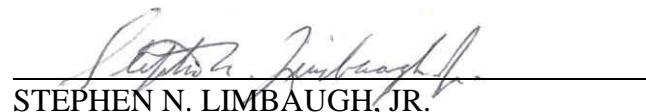
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to file an amended complaint [ECF No. 7] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [ECF No. 3] is **DENIED** without prejudice.

IT IS FURTHER ORDERED that defense counsel shall submit the last known residential address for Stephen Bergeron to the Court, *in camera*, within fourteen (14) days of the date of this Order.

Dated this 21st day of April, 2014.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE